

PATENT**Application # 10/824,533****Attorney Docket # 1059-003****REMARKS**

The Examiner is respectfully thanked for the thoughtful consideration provided to this application. Reconsideration of this application is respectfully requested in light of the foregoing amendments and the following remarks.

Each of claims 1, 9, 10, 13, and 14 has been amended for reasons unrelated to patentability, including at least one of: to explicitly present one or more elements implicit in the claim as originally written when viewed in light of the specification, thereby not narrowing the scope of the claim; to detect infringement more easily; to enlarge the scope of infringement; to cover different kinds of infringement (direct, indirect, contributory, induced, and/or importation, etc.); to expedite the issuance of a claim of particular current licensing interest; to target the claim to a party currently interested in licensing certain embodiments; to enlarge the royalty base of the claim; to cover a particular product or person in the marketplace; and/or to target the claim to a particular industry.

Claims 1-12 are now pending in this application. Claims 13-21 have been withdrawn. Claims 1, 13, and 14 are in independent form.

The Obviousness Rejections

Each of claims 1-12 was rejected under 35 U.S.C. 103(a) as being unpatentable over various combinations of Martin (U.S. Patent No. 6,866,288), Brim (U.S. Patent No. 5,022,420), Gillins (U.S. Patent No. 5,967,601), Sansing (U.S. Patent No. 4,948,197); Lin (U.S. Patent No. 6,193,252), Hamann (U.S. Patent No. 6,102,475), Howard (U.S. Patent No. 4,030,781), and/or Okada (Japanese Patent No. 2001327541). These rejections are respectfully traversed.

None of the applied portions of the references relied upon in the Office Action, either alone or in any combination, establish a *prima facie* case of obviousness. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion

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or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." See MPEP 2143. Moreover, the USPTO "has the initial duty of supplying the factual basis for its rejection." *In re Warner*, 379 F.2d 1011, 154 USPQ 173, 178 (C.C.P.A. 1967).

Claims 1-12 and withdrawn claims 13-21 recite, *inter alia*, a "headrest assembly comprising a headrest width adjuster surrounded by a head pad". Yet, as acknowledged at page 7 of the Office Action, none of the applied portions of the references relied upon in the Office Action teach or suggest, either explicitly or inherently, a "headrest assembly comprising a headrest width adjuster surrounded by a head pad".

Thus, even if there were motivation or suggestion to modify or combine the portions of the references relied upon in the Office Action (an assumption with which the applicant disagrees), and even if there were a reasonable expectation of success in combining or modify the portions of the references relied upon in the Office Action (another assumption with which the applicant disagrees), the applied portions of the references relied upon in the Office Action still do not expressly or inherently teach or suggest every limitation of these claims, and consequently fail to establish a *prima facie* case of obviousness.

Consequently, reconsideration and withdrawal of these rejections is respectfully requested.

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CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

Michael Haynes PLC

A handwritten signature in black ink, appearing to read "Michael N. Haynes", is written over a rectangular area with a light gray dot grid background.

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